

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

FOND DU LAC BUMPER EXCHANGE, INC.,
on behalf of itself and all others similarly situated,
Plaintiff,

vs.

Case No. 2:09-CV-00852-LA

JUI LI ENTERPRISE COMPANY LTD.;
TAIWAN KAI YIH INDUSTRIAL CO.,
LTD.; GORDON AUTO BODY PARTS;
AUTO PARTS INDUSTRIAL, LTD.;
CORNERSTONE AUTO PARTS, LLC; and
TYG PRODUCTS, L.P.,

JURY DEMANDED

Defendants.

**DEFENDANT JUI LI ENTERPRISE CO., LTD.'S MOTION
TO DISMISS FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF
CAN BE GRANTED**

Defendant Jui Li Enterprise Co., Ltd., (“Jui Li”) moves to dismiss the First Amended Complaint of Fond du Lac Bumper Exchange, Inc. and Vehimax International, LLC (collectively, “Plaintiffs”), pursuant to Federal Rule of Civil Procedure 12(b)(6) and Civil Local Rule 7(a)(2). The grounds for this motion are as follows:

1. The allegations in the First Amended Complaint fail adequately to set forth direct evidence of the alleged conspiracy, allegedly in violation of Section 1 of the Sherman Act, 15 U.S.C. §1, as required by Rules 8 and 12 of the Federal Rules of Civil Procedure, and the standards set forth by the United States Supreme Court in *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007), and *Ashcroft v. Iqbal*, 129 S. Ct. 1937 (2009).

2. Plaintiffs have also failed to plead facts sufficient to permit the Court to infer the existence of a conspiracy in violation of Section 1.

3. Plaintiffs' claims based upon sales prior to September 3, 2005 are barred by the applicable statute of limitations, 15 U.S.C. §15b.

4. Defendant Jui Li joins in the legal arguments advanced by its co-defendants in their Brief in Support of their Joint Motion to Dismiss for Failure to State a Claim Upon Which Relief Can be Granted and Motion for Judgment on the Pleadings. (*See* Docket No. 72). For the same reasons, the First Amended Complaint should be dismissed against Jui Li as well.

5. Consistent with Civil Local Rule 7(a)(2), Defendant Jui Li will file a certificate stating that no additional supporting brief is being filed at this time.

WHEREFORE, Defendant Jui Li respectfully requests:

A. That the Court dismiss the First Amended Complaint in its entirety, pursuant to Fed. R. Civ. P. 12(b)(6); and

B. In the alternative, to the extent that the Court does not dismiss the First Amended Complaint in its entirety, that the Court dismiss all claims based on sales prior to September 3, 2005.

Respectfully submitted this 17th day of June, 2010.

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